

ISSUE

Under the circumstances described below, does a membership organization open to individuals and institutions having a beneficial interest in shares of any public utility company located in a certain state qualify for exemption from federal income tax under section 501(c)(4) of the Internal Revenue Code?

FACTS

The organization's purposes are the expansion of industry, the creation of employment, the increase of scientific knowledge, and the support of economic growth through the advancement of the interests of persons who invest in public utility stocks.

The organization prepares and files, on behalf of the public utility companies in which its members own shares, statements relating to rate and regulatory matters pending before the state public utilities commission and other state and federal regulatory agencies and legislative bodies. The organization also distributes among its members a newsletter concerning specific matters affecting public utility shareholders.

LAW AND ANALYSIS

Section 501(c)(4) of the Code provides for the exemption from federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one that is operated primarily for the purpose of bringing about civic betterments and social improvements.

An organization that is operated essentially for the private benefit of its members is not primarily engaged in activities for the common good and general welfare of the people of the community. See Rev. Rul. 73-306, 1973-2 C.B. 179.

In this case, the primary beneficiaries of the organization's activities are its members, together with other individuals who own shares in the public utility companies of the state. Therefore, the organization is primarily operated to serve private interests rather than the interests of the community as a whole.

HOLDING

An organization, which is open to individuals and institutions having a beneficial interest in shares of any public utility company located in the state, in the manner described above, does not qualify for exemption from federal income tax under section 501(c)(4) of the Code.